

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, THE
EMPLOYEES RETIREMENT SYSTEM OF THE
GOVERNMENT OF THE COMMONWEALTH OF
PUERTO RICO, AND THE PUERTO RICO PUBLIC
BUILDINGS AUTHORITY,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**SUPPLEMENTAL DECLARATION OF JUAN SANTAMBROGIO IN RESPECT OF
CONFIRMATION OF EIGHTH AMENDED TITLE III JOINT PLAN
OF ADJUSTMENT OF THE COMMONWEALTH OF PUERTO RICO, *et al.***

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) the Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 17-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

I, Juan Santambrogio, hereby declare and state as follows:

1. I am a Managing Director in the Restructuring Advisory Services practice at Ernst & Young LLP (“EY”). I hold a Masters in Business Administration from the Darden Graduate School of Business Administration, University of Virginia, and bachelor degrees in accounting and business administration from the Catholic University of Argentina. I have over 20 years of experience in financial restructuring advising private and public sector clients. Prior to joining EY in 2011, I was a Managing Director in the restructuring practice of FTI Consulting and prior to that I was a Director in the restructuring division of Macquarie Capital (USA) Inc., a leading merchant bank.

2. I submit this supplemental declaration (the “Supplemental Declaration”) in connection with the *Eighth Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al.* [ECF No. 19053] (the “Plan”), and to discuss the impacts of the new legislation, known as Act 53-2021, titled “Law to End the Bankruptcy of Puerto Rico” (“Act 53”) recently enacted by the Commonwealth government, a copy of which is attached as Exhibit B to the *Urgent Motion of the Financial Oversight and Management Board for Puerto Rico for Order (I) Approving Form of Notice of Rulings the Oversight Board Requests at Confirmation Hearing Regarding Act 53-2021 and (II) Scheduling Objection Deadline* [ECF No. 19002]. To the extent any capitalized terms are used but not defined in this Declaration, such terms shall have the meanings assigned to them in the Plan.

3. My statements set forth in this Declaration are based on my personal knowledge except where I reference specific documents or communications as the basis of my statements. In those instances where I reference a specific document or communication, I am not offering the documents to prove the truth of the content in those documents, or, I am informed, are otherwise

admissible because, for instance, it is a self-authenticating public record or can be otherwise authenticated and shown to be admissible.

4. As pertinent to this Supplemental Declaration, I continue to be familiar with, and have reviewed, (i) the Plan (including as recently modified), (ii) the Fiscal Plan, (Debtors' Exhibit 10) [ECF No. 18785-10], and (iii) the other documents I referenced in my initial declaration [Case No. 17-BK-3283-LTS, ECF No. 18736] (the "Initial Declaration") filed in respect of the *Seventh Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al.* [Case No. 17-BK-3283-LTS, ECF No. 17627] (the "Seventh Amended Plan"). I have also reviewed and am familiar with Act 53 as it relates to the modified terms of the Plan.

5. On October 25, 2021, I submitted my Initial Declaration. The Initial Declaration set forth, among other things, a description of (i) the treatment of certain pension Claims under the Seventh Amended Plan, and (ii) the terms and estimated cost of funding the Pension Reserve Trust in connection therewith. My Initial Declaration stated there were on-going discussions concerning matters regarding the treatment of pension Claims in the Seventh Amended Plan. Here, I supplement my Initial Declaration to reflect the result of those discussions.

6. On October 26, 2021, the Governor of Puerto Rico signed into law Act 53, which the Oversight Board has interpreted to, among other things, include a condition to issuance of New Bonds and CVIs that the Oversight Board would file a modified plan of adjustment eliminating the Monthly Benefit Modification.

7. As a result of the enactment of Act 53, the Oversight Board reviewed and considered the implications of the legislation upon the Seventh Amended Plan, the Commonwealth, and its residents, and determined to modify the Seventh Amended Plan to

eliminate the Monthly Benefit Modification. In connection with this amendment, the Oversight Board also determined to increase the funding of the Pension Reserve Trust under the Plan.

8. Pursuant to the Plan, the Commonwealth will make annual contributions to the Pension Reserve Trust from the Commonwealth General Fund for ten (10) Fiscal Years beginning in the Fiscal Year in which the Effective Date occurs, in an amount no less than \$175 million per year (the “Base Contribution”), provided that, for any Fiscal Year ending after the Effective Date in which the projected unrestricted primary fiscal plan surplus minus the sum of (i) projected CVI payments for such Fiscal Year, plus (ii) the positive difference, if any, of projected Non-Own Source Revenue minus actual Non-Own Source Revenue for such Fiscal Year (the “Projected Fiscal Plan Surplus”) is at least \$1.750 billion, the Base Contribution shall increase to an amount equal to 50% of the Projected Fiscal Plan Surplus for that Fiscal Year. “Non-Own Source Revenue” means revenues of the Commonwealth received from the United States government or any of its agencies.

9. In the Plan, the Commonwealth also must make additional contributions to the Pension Reserve Trust on an annual basis equal to: (a) the lower of the actual unrestricted primary surplus for such Fiscal Year minus the actual CVI payments, or the Projected Fiscal Plan Surplus for such Fiscal Year, minus the sum of (i) the Base Contribution for such Fiscal Year, plus (ii) the Commonwealth debt service obligation pursuant to the Plan for such Fiscal Year, plus (iii) two hundred million dollars (\$200,000,000.00); provided, however, that, in all instances, such additional amount cannot be negative, and (b) subject to applicable laws, including, without limitation, Titles I and II of PROMESA, such additional amounts as the Commonwealth, in its discretion, elects to deposit into the Pension Reserve Trust.

10. Based on the current Fiscal Plan's projections (Debtors' Exhibit 10) [ECF No. 18785-10], the Commonwealth contributions to the Pension Reserve Trust are estimated to total approximately \$2.4 billion during the ten years of funding, all of which will be paid during the time period in which the current Fiscal Plan projects the Commonwealth to have primary surpluses. Fiscal Plan, Exh. 25 at 59 (Debtors' Exhibit 10) [ECF No. 18785-10]. Based on the Oversight Board's assumed annual return on investment for the Pension Reserve Trust of 4.5%, the Oversight Board estimates that the balance of the Pension Reserve Trust will total approximately \$3.1 billion by the end of Fiscal Year 2031. The Pension Reserve Trust is designed to protect future pension benefits regardless of the future economic or political circumstances of the Commonwealth. These circumstances include the deficits currently projected under the Fiscal Plan.

11. Finally, the Plan modifies the Seventh Amended Plan to provide the Upside Participation Bonus under the AFSCME settlement described in Exhibit G to the Plan will be a minimum of \$2,000 for each AFSCME-represented employee during the five-year term of the new AFSCME CBA. The Oversight Board estimates the additional cost of this modification to be approximately \$18.3 million per year for five years beginning in FY2022. This modification would only have an incremental cost as compared to the Upside Participation Bonus contemplated in the Seventh Amended Plan if the Excess Cash Surplus formula for the payment of the Upside Participation Bonus does not result in a bonus at this amount or higher in any given year. *See Plan at p. G-16.*

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: November 3, 2021
Alpharetta, Georgia

/s/ Juan Santambrogio
Juan Santambrogio